

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Robert W. Monster

Application No.: 10/031,236

Confirmation No.: 5037

Filed: October 19, 2001

Art Unit: 2626

For: LANGUAGE SENSITIVE ELECTRONIC
MAIL GENERATION AND ASSOCIATED
APPLICATIONS

Examiner: J. W. Rider

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION
UNDER 37 C.F.R. § 1.705(B)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests reconsideration of the patent term adjustment indicated in the Notice of Allowance of October 31, 2008.¹

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 567398002US from which the undersigned is authorized to draw.

¹ Applicant's representative has been advised that since the U.S.P.T.O. is holding applications such as this one in abeyance until issuance of the patent, applicant may wait until the time of issuance and file an application under 37 C.F.R. § 1.705(d), rather than file this Application. (See, also, "Decision Holding PTA Request in Abeyance Until After Issue Date," U.S. Patent Application No. 10/274,829, Jan. 30, 2007.) It appears, however, that there may be some question as to whether the 37 C.F.R. § 1.705(b) requires filing such an application no later than the payment of the issue fee. In an abundance of caution, applicant is therefore filing this Application at the time of paying the issue fee. Applicant apologizes for any inconvenience this may cause.

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 2066 days. The PTO's calculated patent term adjustment is 847 days. Applicant is entitled to an additional 1219 days of patent term adjustment.

The PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 1097 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay, assuming that the patent will issue on April 21, 2009,² is 1645 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 427 days.

The PTO failed to properly account for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 249 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is 1645+1097-427-249, which is 2066 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 months	12/19/2002	↓
First Office Action	12/20/2005	1097
Total		1097

² The PTO's calculation of patent term adjustment assumed this to be the issue date in the "Determination of Patent Term Adjustment under 35 U.S.C. § 154(b)" that was included with the Notice of Allowance.

B Delay		
Filing Date + 3 years	10/19/2004	↓
Projected Issue Date	04/21/2009	1645
Total		1645

Overlap		
Filing Date + 3 years	10/19/2004	↓
Office Action	12/20/2005	427
Total		427

Reduction		
Office Action	12/20/2005	↓
Reply to Office Action	05/22/2006	63
Office Action	08/21/2006	
Reply to Office Action	02/17/2007	88
Final Office Action	05/02/2007	
Reply to Final Office Action	11/02/2007	92
Office Action	12/11/2007	
Reply to Office Action	03/17/2008	6
Total		249

(iii) Terminal Disclaimer

The patent is not subject to a terminal disclaimer.

Dated: 1/30/09

Respectfully submitted,

By 

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